

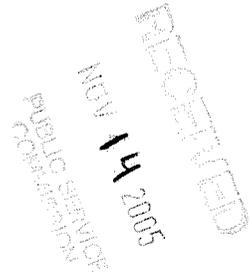


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November 10, 2005

VIA FEDERAL EXPRESS

Kentucky Public Service Commission
Attn: Mr. Jeff Cline
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602-0615



RE: PSC Case No. 2004-00413
Application to Construct Wireless Communications Facility
Location: Rough and Tough Rd., Prestonsburg, KY 41653
Applicant: New Cingular Wireless PCS, LLC
Site Name: Brainard

Dear Mr. Cline:

On behalf of my client New Cingular Wireless, LLC, I am submitting the enclosed original and five (5) copies of Motion to Compel East Kentucky Network, LLC to Produce Information. Thank you for your assistance and do not hesitate to contact me if you have any comments or questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Pike".

David A. Pike
Attorney for New Cingular Wireless PCS, LLC

Enclosures

Cc: Dale Wright

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED

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PUBLIC SERVICE
COMMISSION

In the Matter of:

THE APPLICATION OF)
BELLSOUTH MOBILITY, LLC,)
D/B/A CINGULAR WIRELESS - KENTUCKY)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY AT)
ROUGH AND TOUGH ROAD)
PRESTONSBURG, KENTUCKY 41653 OR, IN THE)
ALTERNATIVE, AN ORDER REQUIRING CO-LOCATION)
ON REASONABLE TERMS AND CONDITIONS)
IN THE WIRELESS COMMUNICATIONS)
LICENSE AREA IN THE COMMONWEALTH OF)
KENTUCKY IN THE COUNTY OF FLOYD)

CASE NO.: 2004-00413

SITE NAME: BRAINARD

* * * * *

**MOTION TO COMPEL EAST KENTUCKY NETWORK, LLC
TO PRODUCE INFORMATION**

By this motion, New Cingular Wireless PCS, LLC, formerly BellSouth Mobility, LLC, (hereinafter, "Cingular"), requests that the Commission enter an order compelling East Kentucky Network, LLC ("EKN"), to produce the information first requested by Cingular on August 11, 2005. In support hereof, Cingular states that on October 17, 2005, the Commission ordered EKN to respond to Cingular's First Information Requests within twenty (20) days. On November 7, 2005, EKN submitted responses that were non-responsive or otherwise failed to provide all of the requested information.

Specifically, EKN failed to provide the information requested in Interrogatory 3,4,5, and 6 on the basis the information is confidential. Similarly, EKN failed to produce documents that were requested in Cingular's Request for Production of Documents 1-8 on the grounds of confidentiality. Section 7 of 807 KAR 5:001 prohibits a party to any proceeding before the commission from failing to respond to discovery by the commission or its staff or any other party to the proceeding on grounds of confidentiality. EKN failed to petition the Commission for confidential treatment of the requested information as required by Section 7 of 807 KAR 5:001. Cingular has tendered a proposed protective agreement to EKN regarding confidential information.

EKN's responses to Interrogatory 7-9 were non-responsive or otherwise unduly restrictive. Interrogatory 7 requests that EKN describe with particularity the collocation policy for cellular antenna towers owned or operated by EKN. The response provided by EKN was that it does not have a specific, written co-location policy. The request for information was not limited to a written policy and includes any information regarding an unwritten or generalized co-location policy. Interrogatory 8 and 9 asks EKN to identify all documents that discuss, evaluate, analyze or otherwise relate to its co-location policy. Interrogatory 9 asks EKN to identify each member, employee, officer, director, managing agent, or other persons with knowledge of its co-location policy on EKN towers.

Consequently, Cingular respectfully requests that the Commission order EKN to produce all of the information requested in Cingular's First Information Requests and as

previously ordered by the Commission on October 17, 2005.

Respectfully submitted,



David A. Pike
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Telefax: (502) 543-4410

Attorney for New Cingular Wireless PCS, LLC

CERTIFICATE OF SERVICE

I hereby certify that, on November 10, 2005, a true and accurate copy of the foregoing was sent, by First Class Mail, postage prepaid, to John E. Selent and Holly C. Wallace, Dinsmore & Shohl, LLP, 1400 PNC Plaza, 500 W. Jefferson Street, Louisville, Kentucky, 40202.



David A. Pike